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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/090,911

03/05/2002

Hugo Jean Marie Demeyere

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27752 7590 07/07/2009  
THE PROCTER & GAMBLE COMPANY  
Global Legal Department - IP  
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EXAMINER

HARDEE, JOHN R

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

07/07/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/090,911	<b>Applicant(s)</b> DEMEYERE ET AL.	
	<b>Examiner</b> JOHN R. HARDEE	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24 and 30-58 is/are pending in the application.  
     4a) Of the above claim(s) 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24 and 30-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12102007</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 18, 2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 24 and 30-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/57259 in view of Merz, US 3,888,391 and further in view of EP 864,642 A1. The WO discloses fabric care compositions comprising a modified cellulase. Surfactant is typically present at a most preferable range of 1% to 30% by weight (p. 18, 2<sup>nd</sup> para). Cationic softeners are preferred, and include coconut dimethyl hydroxyethyl ammonium chloride, which is disclosed as especially preferred (p 20, bottom). Typical softening components include distearoyloxyethyl dimethyl ammonium chloride (p. 21, 12)). Total cationic content is preferably about 1-8% (p. 23, 2<sup>nd</sup> para.) Addition of silicone antifoaming agents, perfume and HCl in amounts which meet the limitations of applicant's elected composition are exemplified. Note, in particular Example 15 on p.

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78, which discloses a DEQA rinse added fabric softener in combination with a suds suppressor. It is well known in the surfactant art that substantial amounts of monoester are present in commercially available DEQA fabric softening compositions, so applicant's recitation of the addition of a surfactant scavenger does not add patentable weight. The presence of the monoester meets the limitation of about 1:1 to 1.6:1 fatty acid:amine. Note the teaching at the 3<sup>rd</sup> full paragraph on p. 16 that the compositions may be used for manual treatment of fabrics and as softening treatments after laundering. The examiner takes the position that this passage may be fairly construed as teaching the use of the disclosed compositions for softening by hand after laundering. The reference does not disclose the use of such a composition in a first rinse bath.

Merz discloses a dispenser for use in automatic washing machines which is actuated in the first spin which follows the wash cycle. The dispenser opens during this spin and dispenses the contents during the first rinse (abstract). In the first paragraph of the specification, use for dispensing liquid fabric softeners is disclosed. It would have been obvious at the time that the invention was made to use the composition of the WO in the first rinse bath of a manual rinsing process, because the WO discloses that its compositions are useful for rinsing manually, and Merz discloses a device for dispensing liquid fabric softener in the first rinse cycle. As manual rinsing is taught in the first reference, and use of a softening composition in the first bath is taught in the secondary reference, use of a softening composition in the first bath of a manual rinse process can be fairly inferred from the combined teachings of the references.

Use of a pro-perfume is not disclosed. The EP teaches that conventional perfumes do not provide a long lasting scent when applied to fabrics, and that such a long lasting scent can be realized by incorporating a pro-perfume into the fabric treatment composition (p. 2, lines 9+). It would have been obvious at the time that the invention was made to incorporate a pro-perfume into the fabric treatment composition of the WO, because addition of perfume is notoriously common, and the EP teaches that a longer lasting scent can be attained through the use of pro-perfumes.

#### ***Response to Arguments***

4. Applicant's arguments filed June 18, 2008 have been fully considered but they are not persuasive. These arguments were addressed in a previous office action.

5. The examiner notes that claim 58 does not end with a period. As this claim is withdrawn from consideration no 112 rejection was made, but applicant may wish to correct this in any divisional applications.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Mr. Harold Pyon, may be reached at (571) 272-1498.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John R. Hardee/  
Primary Examiner  
June 29, 2009